

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARY PEARSON,

Plaintiff,

v.

OPINION and ORDER

KILOLO KIJAKAZI,
Acting Commissioner of
Social Security,¹

20-cv-627-jdp

Defendant.

Barry A. Schultz, counsel for plaintiff Mary Pearson, moves under 42 U.S.C § 406(b) for a fee award of \$16,740.50. Dkt. 27. The commissioner has reserved \$21,340.50, 25 percent of Pearson's award for past-due benefits, for attorney fees.² Dkt. 27-1. Counsel's requested fee is less than 25 percent of Pearson's past-due benefits, so it falls within the amount allowed by statute and the parties' fee agreement. Dkt. 27-2. The motion is unopposed. Dkt. 27, at 4.

Counsel's firm spent 39.05 hours on this case for proceedings in this court. Most of that time was spent reviewing the administrative record and drafting plaintiff's brief in support of reversing the commissioner's decision. Dkt. 27-3. Counsel's requested fee results in a proposed effective rate of about \$429 per hour. That rate is reasonable in light of counsel's risk of non-recovery, the work he performed, the results he obtained, and the amounts awarded in similar cases. *See, e.g., DeBack v. Berryhill*, No. 17-cv-924-jdp, Dkt. 31 (W.D. Wis. May 4, 2020)

¹ The court has updated the caption pursuant to Federal Rule of Civil Procedure 25(d).

² The total amount of Pearson's past-due benefits isn't in the record. But a notice from the agency provides that \$21,340.50 represents 25 percent of the benefit award, Dkt. 27-1, at 2, and the commissioner doesn't dispute that figure.

(approving effective rate of \$800 per hour); *Fischer v. Saul*, No. 17-cv-327-jdp, 2019 U.S. Dist. LEXIS 181868, 2019 WL 5310676 (W.D. Wis. Oct. 21, 2019) (approving effective rate of \$641 per hour). The court will grant counsel's motion. For simplicity, the court will subtract the \$7,800 fee that counsel received under the Equal Access to Justice Act, which would otherwise have to be refunded to Pearson.

ORDER

IT IS ORDERED that Barry Schultz's motion for attorney fees under 42 U.S.C. § 406(b), Dkt. 27, is GRANTED. The court approves a representative fee of \$8,940.50.

Entered July 5, 2022.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge